

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

JAMES E. BOYCE,)	
)	
Petitioner,)	
)	
vs.)	Case No. 4:13-CV-02337-JCH
)	
UNITED STATES OF AMERICA,)	
)	
Respondent.)	

MOTION TO CONTINUE

COMES NOW James E. Boyce, petitioner herein, by and through his attorney, and states to the Court as follows:

1. This Court has scheduled a hearing in this matter for January 13, 2015.
2. Currently pending before the United States Supreme Court is the case of *Johnson v. United States*, Case No. 13-7120. This case was fully briefed and set for argument on December 29, 2014. This case arises out of a decision in the Eighth Circuit Court of Appeals concerning whether or not mere possession of a sawed off shotgun is a violent felony under the Armed Career Criminal Act. The Court continues its review of the petition filed in the *Chandler* matter, and has not yet denied the petition.
3. Following the Court's initial sentencing of Mr. Boyce in the underlying criminal case, the Court's sentence was appealed to the Eighth Circuit. In the Eighth Circuit decision, the Court determined that mere possession of a weapon in prison is a violent felony based, in part, on prior case law holding that possession of a dangerous weapon that has no lawful purpose (a sawed off shotgun) creates a serious potential risk of physical injury to others, and is a violent felony for purposes of sentencing under the Armed Career Criminal Act.

4. In order that Mr. Boyce may receive the possible benefit of the decision by the United States Supreme Court in *Johnson*, it is necessary that the Court continue Mr. Boyce's upcoming hearing of January 13, 2015.

WHEREFORE, petitioner prays this Honorable Court to continue and reset the currently scheduled hearing of January 13, 2015⁴ for a period of forty-five (45), and for such other and further relief and orders as the Court deems just and proper.

/s/ Eric W. Butts
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CERTIFICATE OF SERVICE

I hereby certify that on January 8, 2015, a copy of the foregoing was filed electronically with the Clerk of the Court to be served by operation of the Court's electronic filing system upon the following: Ms. Allison H. Behrens, Assistant Attorney General, 111 South 10th Street, 20th Floor, St. Louis, Missouri 63102.

/s/ Eric W. Butts